



# House of Representatives

General Assembly

**File No. 412**

February Session, 2002

Substitute House Bill No. 5571

*House of Representatives, April 9, 2002*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING DAMAGES FOR THE UNLAWFUL KILLING OR INJURING OF A COMPANION ANIMAL.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective October 1, 2002*) (a) For the purposes of  
2       this section, "companion animal" means a domesticated, warm-  
3       blooded animal that is normally kept in or near the household of its  
4       owner or keeper and is dependent on a person for food, shelter and  
5       veterinary care, but does not include an animal kept for farming or  
6       biomedical research practices.

7       (b) Any person who intentionally kills or injures a companion  
8       animal, except in defense of such person or another person or as  
9       otherwise authorized by law, shall be liable to the owner of such  
10      companion animal for economic damages sustained by such owner  
11      including, but not limited to, expenses of veterinary care, the fair  
12      monetary value of a deceased companion animal and burial expenses  
13      for a deceased companion animal.

14 (c) In addition to any economic damages awarded pursuant to  
15 subsection (b) of this section, the court may award punitive damages  
16 in an amount not to exceed the jurisdictional monetary limit  
17 established by subsection (d) of section 51-15 of the general statutes, as  
18 amended, together with a reasonable attorney's fee.

19 (d) The provisions of subsection (c) of this section shall not apply to:  
20 (1) A veterinarian licensed pursuant to chapter 384 of the general  
21 statutes while following accepted standards of practice of the  
22 profession, (2) the state or any political subdivision of the state or any  
23 employee, officer or agent thereof while acting within the scope of  
24 such employee's, officer's or agent's employment or official duties, or  
25 (3) an employee of or volunteer for a nonprofit organization or  
26 nonprofit corporation organized and operated exclusively for the  
27 prevention of cruelty to animals or the protection of stray, abandoned  
28 or mistreated animals while acting within the scope of such employee's  
29 or volunteer's employment or duties.

30 Sec. 2. Section 22-351 of the general statutes is repealed and the  
31 following is substituted in lieu thereof (*Effective October 1, 2002*):

32 (a) Any person who steals, confines or conceals any [dog]  
33 companion animal, as defined in section 1 of this act, or who, with the  
34 intention of stealing such [dog] companion animal or concealing its  
35 identity or the identity of its owner or with the intention of concealing  
36 the fact that the [dog] companion animal is licensed, removes the collar  
37 or harness or tag from any licensed [dog] companion animal, or who  
38 unlawfully kills or injures any [dog] companion animal, shall be fined  
39 not more than [two hundred] one thousand dollars or imprisoned not  
40 more than six months or both, [ and shall also be liable to the owner in  
41 a civil action.] For a second offense, or for an offense involving more  
42 than one [dog] companion animal, any such person shall be fined not  
43 more than [five hundred] two thousand dollars or imprisoned not less  
44 than one year nor more than three years or be both fined and  
45 imprisoned.

46 (b) Any person who violates the provisions of subsection (a) of this

47 section shall be liable to the owner in a civil action, except that, if such  
48 person intentionally kills or injures any companion animal, such  
49 person shall be liable to the owner in a civil action as provided in  
50 section 1 of this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Fund-Type	Agency Affected	Current FY \$	FY 03 \$	FY 04 \$
GF - Revenue Gain	Judicial Dept.	None	Potential Minimal	Potential Minimal

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

The bill makes someone who intentionally kills or injures a companion animal (with certain exceptions) liable to the animal's owner for economic and punitive damages up to the jurisdictional level established for small claims court (currently \$3,500). The bill expands the criminal penalty for killing, injuring or stealing a dog to include companion animals. It also increases the monetary penalty for such an offense: (1) from \$200 to \$1,000 for a first offense, and (2) from \$500 to \$2,000 for a second offense. In FY 01 there were two offenses under CGS Section 22-351 with total revenues of \$200.

It is anticipated that the superior court would be able to accommodate within available resources any increase in the number of small claims court cases heard due to this bill. Any revenue increase as a result of criminal fines is likely to be minimal.

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**OLR Bill Analysis**

sHB 5571

***AN ACT CONCERNING DAMAGES FOR THE UNLAWFUL KILLING  
OR INJURING OF A COMPANION ANIMAL*****SUMMARY:**

This bill makes anyone who intentionally kills or injures a companion animal liable to the animal's owner for economic damages the owner sustains. These damages include, but are not limited to veterinary care, the animal's fair monetary value, and burial expenses, if applicable. The bill specifies that this liability does not apply if the law authorizes the person to kill or injure the animal or if the person acted in self-defense or to defend another person.

The bill defines "companion animal" as a domesticated, warm-blooded animal that is normally kept in or near its owner's or keeper's home and is dependent on a person for food, shelter, and veterinary care. The definition excludes an animal kept for farming or biomedical research.

Under the common law, people are liable for negligently killing an animal, but it appears damages are limited to the deceased animal's fair market value. It is unclear under existing law what damages an owner can recover when someone negligently injures an animal.

The bill authorizes the court to also award punitive damages in an amount up to the Small Claims Court jurisdictional monetary limit (currently \$3,500) plus reasonable attorney's fees. But it excludes from this liability certain classes of people such as licensed veterinarians who followed accepted standards of practice. Under the common law, people are liable for punitive damages up to the cost of litigation plus attorney's fees if they acted willfully, wantonly, or maliciously.

The bill increases the criminal penalties for those who kill, injure, or steal a dog, or engage in certain behavior intending to steal a dog. It applies these enhanced penalties to other companion animals.

EFFECTIVE DATE: October 1, 2002

## **PUNITIVE DAMAGES-EXCLUSIONS**

The bill excludes from the court's authority to award punitive damages: (1) a licensed veterinarian following accepted standards of practice of the profession; (2) the state, any of its political subdivisions, or their employees, officers, or agents while acting within the scope of their employment or official duties; or (3) employees of, or volunteers for, a nonprofit entity organized and operated exclusively for preventing cruelty to animals or protecting stray, abandoned, or mistreated animals while acting within the scope of their employment or duties.

## **CRIMINAL PENALTIES**

Under current law, it is a crime to (1) steal, confine, or conceal any dog; (2) remove the animal's collar, harness, or tag intending to steal it or conceal its identity or its owner's identity, or with the intending to conceal the fact that the dog is licensed; or (3) unlawfully kill or injure a dog.

The bill increases the maximum fine for a first offense from \$200 to \$1,000. The possible prison term of up to six months remains the same. The bill increases the maximum possible fine, from \$500 to \$2,000, for a second offense and for an offense involving more than one dog. It retains the mandatory prison term of between one to three years.

The bill imposes these same criminal penalties for these crimes against companion animals. The bill also authorizes owners of a companion animal who has been subjected to this criminal conduct to sue the perpetrator for damages.

## **BACKGROUND**

### ***Common Law Damages for Death or Injury of Animals***

Under Connecticut common law, someone who willfully, wantonly, or negligently kills or injures an animal is liable to the animal's owner for damages (*Soucy v. Wysocki* 139 Conn. 162 (1953); *Griffin v. Fancher* 127 Conn. 686 (1941)).

There is little case law in Connecticut on the nature of damages available for killing or injuring an animal. But generally the common

law has treated animals as personal property and limited damages for an animal's death to its market value when it died. Fair market value depends on such things as purchase price, age, health, breed, training, usefulness, and any special considerations such as the animal's special qualities (4 Am. Jur. 2<sup>nd</sup> Animals, S 162; 70 N.Y.U.L. Rev 1059 (1995)).

Under Connecticut common law, someone who willfully, wantonly, or maliciously, harms someone or his property is liable for punitive damages in addition to compensatory damages (*Lentine v. McAvoy*, 105 Conn. 528; Connecticut Law of Torts, Section 174). Common law punitive damages are limited to the actual cost of the litigation plus attorney's fees (*Markey v. Santangelo*, 195 Conn. 76, (1985)).

### **Related Statutes**

Dogs are deemed to be personal property and anyone who steals them is subject to the larceny laws (CGS § 22-350). Anyone who steals any property, or knowingly receives and conceals it, is liable to the owner for three times his damages (CGS§ 22-350).

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 40      Nay 0